

### REMARKS

Claims 1-7 are pending in this application. Claims 1 and 5-7 are independent. In light of the remarks made herein, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

In the outstanding Official Action, the Examiner rejected claims 1-2 and 4-5 under 35 U.S.C. §103(a) as being unpatentable over *Nakajima et al.* (USP 6,025,929) in view of *Yamamoto* (USP 6,577,751); rejected claim 3 under 35 U.S.C. §103(a) as being unpatentable over *Nakajima et al.* and *Yamamoto* and further in view of alleged well-known art; and rejected claims 6-7 under 35 U.S.C. §103(a) as being unpatentable over *Ishida et al.* (USP 6,714,204) in view of *Yamamoto*. Applicant respectfully traverses these rejections.

#### Claim Rejections – 35 U.S.C. §103 – *Nakajima et al./Yamamoto*

In support of the Examiner's rejection of claim 1, the Examiner asserts that *Nakajima et al.* teaches all of the claim elements except the predetermined condition being an inconvenience as to eyes in the image represented by the image data to the image data. The Examiner relies on the teachings of *Yamamoto* to cure the deficiencies of the teachings of *Nakajima et al.*, citing to col. 2, line 60. The Examiner asserts that one skilled in the art would be motivated to modify the teachings of *Nakajima et al.* with the teachings of *Yamamoto* as follows:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of *Yamamoto* in which the predetermined inconvenience or processing condition to image data is red eye detection and correction into the apparatus as disclosed by *Nakajima* because "...the most important factor to the image quality is how fine the human subject is finished. Therefore, the "red eye" in which the eyes (or pupils) of a human subject appears red due, for example to the reflection of light from an electronic flash used in shooting is a serious problem indeed" which needs correction for high quality output images.

Applicant respectfully disagrees with the Examiner's assertions.

The disclosure of *Nakajima et al.* is directed to an apparatus and method for controlling image processing based on image quality and/or processing speed as control parameters. *Nakajima et al.* discloses image processing to which the entire surface of an image is subjected.

The Examiner seeks to modify *Nakajima et al.* with the disclosure of *Yamamoto*. The Examiner relies on the teachings of *Yamamoto* that disclose that the “red eye” in which the eyes (or pupils) of a human subject appears red due, for example to the reflection of light from an electronic flash used in shooting is a serious problem indeed, which needs correction for high quality output images. Thus, the Examiner considers that processing for correcting “red eye” cannot be omitted under any circumstance because it is a serious problem.

In contrast, the invention set forth in claim 1 recites, *inter alia*, an image output apparatus that includes a correcting section that transfers image data to the image output section upon application of processing of detection and correction of a predetermined inconvenience as to eyes in the image represented by the image data to the image data, or transfers image data to the image output section without application of processing of detection and correction of the predetermined inconvenience to the image data, **in accordance with a situation as to whether an associated output mode of the image output section is a predetermined output mode which is relatively high in the output quality among the plurality of output modes**. Thus, the red eye condition becomes inconspicuous when the image quality is lowered and thus, processing for correcting red-eye can be omitted.

As such, Applicant respectfully submits that first, even if the cited references were combined, as suggested by the Examiner, that the resultant combination of the cited references would still fail to teach or suggest transferring image data to the image output section upon application of processing of detection and correction of a predetermined inconvenience as to eyes in the image represented by the image data to the image data, or transfers image data to the image output section without application of processing of detection and correction of the predetermined inconvenience to the image data, **in accordance with a situation as to whether an associated output mode of the image output section is a predetermined output mode which is relatively high in the output quality among the plurality of output modes**.

Second, Applicant respectfully submits that there is insufficient rationale to combine the teachings as suggested by the Examiner.

For at least these reasons, Applicant respectfully submits that the Examiner has failed to establish *prima facie* obviousness by failing to provide references that teach or suggest, either alone or in combination, all of the claim elements and by failing to provide proper rationale as to why one skilled in the art would be motivated to make such a combination. Thus, claim 1 is patentable over the references as cited.

It is respectfully submitted that claims 2-4 are allowable for the reasons set forth above with regard to claim 1 at least based on their dependency on claim 1. Further claim 5 includes elements similar to those discussed above with regard to claim 1 and thus claim 5 is allowable for the reasons set forth above with regard to claim 1.

With regard to the Examiner's rejection of claim 3, the Examiner takes Official Notice that "output quality is a display time for an image," is well known. Applicant respectfully submits that such a feature, in combination with the other claim elements, is not well known. Applicant respectfully traverses the Examiner's Official Notice and requests that the Examiner provide a properly combinable reference that teaches all of the claimed elements.

#### **Claim Rejections – 35 U.S.C. §103 – *Ishida et al./Yamamoto***

In support of the Examiner's rejection of claim 6, the Examiner asserts that *Ishida et al.* teaches all of the claim elements except the predetermined condition being an inconvenience as to eyes in the image represented by the image data to the image data. The Examiner relies on the teachings of *Yamamoto* to cure the deficiencies of the teachings of *Ishida et al.*, citing to col. 2, line 60. The Examiner asserts that one skilled in the art would be motivated to modify the teachings of *Ishida et al.* with the teachings of *Yamamoto* for the reasons noted above with regard to claim 1.

However, as noted above, *Yamamoto* fails to cure such deficiencies and further, the rationale provided by the Examiner fails to address why one skilled in the art would be motivated to make the purported combination asserted by the Examiner.

For at least these reasons, Applicant respectfully submits that the Examiner has failed to establish *prima facie* obviousness by failing to provide references that teach or suggest, either alone or in combination, all of the claim elements and by failing to provide proper rationale as to why one skilled in the art would be motivated to make such a combination. Thus, claim 6 is patentable over the references as cited.

It is respectfully submitted that claim 7 includes elements similar to those discussed above with regard to claim 6 and thus claim 7 is allowable for the reasons set forth above with regard to claim 6.

### **Conclusion**

In view of the above remarks, it is believed that claims are allowable.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisin Reg. No. 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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